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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA**

**FOURTH APPELLATE DISTRICT**

**DIVISION TWO**

In re K.R., a Person Coming Under the  
Juvenile Court Law.

RIVERSIDE COUNTY DEPARTMENT  
OF PUBLIC SOCIAL SERVICES,

Plaintiff and Respondent,

v.

E.R. et al.,

Defendants and Appellants.

E053546

(Super.Ct.No. RIJ118862)

OPINION

APPEAL from the Superior Court of Riverside County. Matthew C. Perantoni,  
Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.) Affirmed.

Lori A. Fields, under appointment by the Court of Appeal, for Defendant and  
Appellant E.R.

Matthew I. Thue, under appointment by the Court of Appeal, for Defendant and  
Appellant D.R.

Pamela J. Walls, County Counsel, and Anna M. Deckert, Deputy County Counsel,  
for Plaintiff and Respondent.

No appearance for Minors.

E.R. (Mother) and D.R. (Father) appeal from an order terminating their reunification services, identifying legal guardianship as the permanent plan for their adopted son, K.R., and setting a Welfare and Institutions Code section 366.3 postpermanency review hearing.<sup>1</sup> They contend that substantial evidence does not support the juvenile court's finding that they received reasonable services. We disagree and affirm.

## I. PROCEDURAL BACKGROUND AND FACTS<sup>2</sup>

On October 27, 2009, the Riverside County Department of Social Services (the Department) filed a dependency petition alleging K.R. (and four other children<sup>3</sup>) came within the court's jurisdiction pursuant to section 300, subdivision (b). K.R., born in 1996 and later adopted by Father and Mother, was removed from the parents' custody on the grounds that they had failed to provide for his educational and welfare needs. K.R.

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<sup>1</sup> All further statutory references are to the Welfare and Institutions Code unless otherwise indicated.

<sup>2</sup> On March 14, 2011, Father filed a notice of intent to file a writ petition under California Rules of Court, rule 8.452(a) in case No. E053121. The petition was subsequently denied in our opinion filed July 8, 2011. By order of June 6, 2011, the record in E053121 was incorporated with the record in this case, No. E053546. Accordingly, references to the clerk's transcripts (CT) and reporter's transcripts (RT) refer to those contained in case No. E053121 unless otherwise indicated.

<sup>3</sup> Because the other children are not parties to this appeal, our discussion of the facts is limited to K.R.

was illiterate and in need of dental treatment. Prior to filing the petition, K.R. told the social worker that he last attended school four months ago, and that his family had moved to the area five months ago. He reported that none of his brothers were attending school, and he was sleeping on the living room floor with his three brothers. Mother indicated she had power of attorney over Father, because he suffered from mental health issues, namely, anxiety and “inappropriate” behavior, for which he was taking medication. Mother insisted that K.R. had seen a dentist earlier in the year in Visalia, but she was unable to provide more detailed information. The parents have an extensive history of child welfare referrals, most of which were for general neglect, and all of which were determined to be unfounded or inconclusive, i.e., one in San Diego County in 2001, and in Tulare County—one in 2002, two in 2005, one in 2006, one in 2008, and three in 2009.

At the detention hearings held on October 28 and 29, 2009, the juvenile court found a prima facie case to detain K.R. and ordered family reunification services consisting of parenting and counseling. Supervised visitation was also ordered.

The jurisdiction/disposition report was filed November 30, 2009. K.R. was placed in a foster home and the parents visited one hour a week. K.R. expressed distress about his parents not telling him he was adopted and said he did not want to return to them.

On December 2, 2009, the juvenile court sustained the allegations in the second amended dependency petition. K.R. was ordered to remain in foster care. The parents were provided family reunification services. They were ordered to participate in psychological evaluations, with the results to be available for the six-month review hearing set for June 2, 2010, and they were ordered to complete counseling and parenting

education. Their case plan also included, if clinically appropriate, individual counseling. The parents were advised that failure to visit the children or to complete their reunification plan within 12 months could lead to termination of services and possibly termination of parental rights.

The six-month review report was filed on May 20, 2010. The parents had completed parenting education courses on April 13, 2010, and continued to participate in weekly supervised visitation; however, a few were cancelled or missed due to illness. Mother had started individual therapy with Maricela Chapman, LMFT, on December 8, 2009, but Mother stopped attending on March 31, 2010. Although Mother attended therapy sessions regularly, Ms. Chapman opined that Mother “lack[ed] insight” and had characteristics of narcissistic personality disorder. Mother requested a new therapist and was referred to Vera Stemankovic, LMFT, but Mother cancelled the first appointment.

On April 9, 2010, both parents were seen by a psychologist, Dr. Kenneth Garrett, Ph.D. The psychologist observed that Father had “little insight into the severity of his current problems . . . [or] the nature of the unstable lifestyle he provided for the children in the past.” Father was diagnosed with generalized anxiety disorder and narcissistic personality disorder. Dr. Garrett recommended that “compliance with the contract with the [Department] would be a critical aspect of the children being returned to them in the near future.” When asked if it would be clinically appropriate to provide Father with individual therapy, Dr. Garrett stated, “we could provide the service and see if [Father] would work on his issues.” Dr. Garrett further observed that individuals with this personality disorder may “frequently avoid self-exploration and self-awareness.” Father

was referred to Gate Way Counseling on May 6, 2010. As for Mother, the doctor gave a probable diagnosis of paranoid personality disorder, although he observed her to have a loving and caring capacity to parent. The Department recommended the parents receive six more months of reunification services.

At the six-month review hearing on June 2, 2010, the juvenile court was advised that K.R. desired to return home. Parents requested that K.R. be returned to their care; however, the court found by preponderance of evidence that K.R. could not be returned without a substantial risk of detriment. Counsel for Father pointed out that Father's lack of progress was due in part to the Department's failure to schedule his psychological evaluation until April 2010, after the court had ordered it in December 2009, and not ordering individual therapy for him until May 2010. Father argued that he could have been participating in therapy for the past five months and that it was the Department's fault he had not been able to do so. The juvenile court asked, "Are you trying to set this for contest on reasonable services, is that what you are talking about?" Counsel indicated he was merely addressing the arguments by the Department as to Father's lack of progress.

The court found by clear and convincing evidence that the parents were in partial, but not substantial, compliance with their case plan, and that the Department had provided reasonable reunification services. Father's progress in mitigating the causes of the dependency was unsatisfactory. The court ordered six more months of reunification services and authorized the Department to liberalize visitation with K.R., who was also to receive counseling. The case was continued to December 2010.

The Department filed a 12-month review report on November 17, 2010, and an addendum report on November 29. The social worker noted that Mother had been referred to three therapists but “was discharged from all three due to her refusal to accept that she neglected her children causing them great harm.” It was noted that the parents’ psychological evaluations “revealed that both parents have personality disorders that are difficult to treat as some of these traits are inflexible, maladaptive, and persisting and cause significant functional impairment.” According to the social worker, the parents “lack the sensitivity to the needs of the children and have no insight regarding how their behavior has negatively impacted the children physically, emotionally, mentally and educationally.” Father was described as being “passive,” implying “that he is non-protective.”

Regarding Father’s counseling, in the addendum report it was noted that despite the May 2010 referral, Father had not contacted Gate Way for counseling. He and Mother explained that “they had their own private therapists who were of their faith”; however, they failed to provide the Department with the therapist’s name or telephone number. On August 16, 2010, Father was referred to New Hope Counseling Christian Center for therapy; however, as of November 23, 2010, Father had not contacted New Hope for therapeutic services. Meanwhile, Mother had been discharged from therapy several times because she failed to take any responsibility for the children’s detention. The Department recommended termination of reunification services, setting a section 366.26 hearing, and implementing a plan of legal guardianship.

The 12-month review hearing set for December 2, 2010, was continued several times to February 23, 2011. Another addendum report was filed on February 16, 2011, which reported that the parents “do not ask about [K.R.], how he is doing in school or even if he is ill. The parents act as if [K.R.] does not exist. This past Christmas 2010, [they] gave the three younger children Christmas gifts but did not give [K.R.] anything and this act was not lost on [K.R.]” Mother’s mental health was described as “deteriorating and in fact it appears that she is becoming even more unstable.”

The contested hearing was held over a number of court sessions, on February 2, 22, 24, 25 and 28, and March 1, 2, 3, 7 and 8, 2011. The juvenile court heard testimony from the foster parent to the three youngest boys, the social worker, the social worker’s supervisor, and Mother. Father did not testify. Although he was called as a witness on March 7, he appeared too ill and emotionally distraught. The social worker testified that Father did not inform her until August 2010 that he was unable to contact the therapist he was referred to in May 2010. She provided a referral to another therapist; however, Father did not follow up with that referral either. Father had told the social worker he was obtaining private counseling; however, neither he nor Mother provided the name of the therapist, despite the fact that they called the Department over 100 times a month.

Counsel for the parents argued that the Department failed to provide reasonable services by failing to provide family counseling. Counsel for the Department pointed out that (1) there was prima facie evidence of detriment that justified the termination of reunification services, since the parents had failed to participate in counseling; (2) parents

had not benefitted from the services they had completed; and (3) parents had not identified which further services they desired and/or needed.

On March 8, 2011, the juvenile court found that the Department had provided reasonable services and terminated reunification services. The court found that Father had not participated in any counseling, Mother had failed to effectively participate in counseling, and return of K.R. to parents would create a “substantial risk of detriment” to his safety, protection, and physical or emotional well being. Legal guardianship was identified as the permanent plan, and a section 366.3 postpermanency review hearing was set for September 9, 2011.<sup>4</sup>

On May 5, 2011, parents appealed the court’s order of March 8, 2011. They contend they were not provided reasonable services.

## II. REASONABLE SERVICES

Both parents contend the court’s finding that the Department provided reasonable services to them is not supported by substantial evidence.

“[W]ith regard to the sufficiency of reunification services, our sole task on review is to determine whether the record discloses substantial evidence which supports the juvenile court’s finding that reasonable services were provided or offered. [Citations.]” (*Angela S. v. Superior Court* (1995) 36 Cal.App.4th 758, 762.) “We must view the evidence in the light most favorable to the department and indulge all legitimate and

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<sup>4</sup> Both parents filed notices of intent to file a petition for extraordinary writ; however, only Father filed a petition challenging the juvenile court’s finding that the Department had provided Father with reasonable services. This court denied the writ, finding substantial evidence the Department provided reasonable services.

reasonable inferences to uphold the order. [Citation.]” (*Mark N. v. Superior Court* (1998) 60 Cal.App.4th 996, 1010.) “The adequacy of the reunification plan and of the department’s efforts to provide suitable services is judged according to the circumstances of the particular case. [Citations.]” (*Id.* at p. 1011.) In reviewing the reasonableness of the reunification services, we “recognize that in most cases more services might have been provided, and the services which are provided are often imperfect. The standard is not whether the services provided were the best that might have been provided, but whether they were reasonable under the circumstances. [Citation.]” (*Elijah R. v. Superior Court* (1998) 66 Cal.App.4th 965, 969.)

Regarding Father, the Department argues that this issue was addressed and decided against him in his petition for extraordinary writ. In response, Father argues his writ merely “challenged the lower court’s reasonable services finding based exclusively on the Department’s failure to provide [him] with a timely referral to individual therapy.” However, in this appeal, Father argues that the Department failed to provide reasonable services by failing to adequately respond to the “obstacles to reunification associated with [his] mental instability and [K.R.’s] aversion to parent-child visits.” We address the merits of the issue.

The record in this case, as set out above, reveals the services offered were reasonable; they were tailored to fit the circumstances and to eliminate the conditions that led to the juvenile court’s jurisdictional finding, and the parents consented to them. The case plan provided for a psychological evaluation of both parents, which occurred on April 9, 2010, by Dr. Garrett. Prior to that date, Mother had been in individual therapy

until March 31, 2010. The therapist opined that Mother lacked insight and had characteristics of narcissistic personality disorder. Mother requested a new therapist and was provided a referral; however, she cancelled the first appointment. While Mother faults the Department for not referring her to a clinical psychologist, there is nothing in the record indicating she required referral. As the Department points out, Mother and her attorney knew about Dr. Garrett's diagnosis prior to the six-month review hearing; however, neither requested a re-evaluation of her case plan. Mother held herself out as being the stable parent by stating that she had power of attorney over Father. While Dr. Garrett indicated that Mother may have aspects of a paranoid personality disorder, he did not recommend that she see a licensed psychologist. Instead, he recommended that she merely continue with her counseling. According to Mother's counselor, Mother was discharged from counseling because she refused to participate in therapy. Her third counselor reported that Mother was not amenable to psychotherapy treatment. Refusing to take responsibility for her circumstances, Mother blamed others. Her characterization of the Department's approach to reunification services as being "mechanical" is misplaced. As previously noted, neither Mother nor Father was a stranger to county social services. Moreover, they had legally adopted K.R. and were the legal guardians of three younger boys. The record before this court demonstrates the Department's attempt to meet the parents' needs in order to return the children to them. There was nothing mechanical about it.

Regarding Father, the Department was informed that it could provide individual therapy to him, but Dr. Garrett did not have much faith that such therapy would be

helpful. Nonetheless, Father was unsuccessful in connecting with the therapist, and he failed to inform the social worker of this problem. It was not until August 2010 that the Department was made aware that Father was not participating in therapy. Upon this discovery, the social worker provided Father with a second referral, which Father again failed to act upon or inform the Department that he needed assistance connecting with this referral. Father complains that given Dr. Garrett's opinion that Father's personality may avoid self-exploration and self-awareness, the Department should have known Father would not follow up on the referrals. Father is suggesting that the Department should be faulted for not "holding his hand" and making him attend therapy. We reject such suggestion. To hold otherwise would put a tremendous burden on social workers, forcing them to be responsible any time a parent is disinclined or is simply too lazy to take the action necessary to comply with his or her case plan. More particularly, in this case, Dr. Garrett's opinion did not state that Father would fail to take the initial step of contacting a therapist. Rather, he merely indicated "individuals with this profile frequently avoid self-exploration and self-awareness." Furthermore, the record shows that Father did participate in his parenting classes, attempted to contact the first referred therapist, and claimed to have obtained a private therapist. Thus, there was no reason for the social worker to believe she would have to actually enroll Father into therapy.

Parents' reliance on *In re Daniel G.* (1994) 25 Cal.App.4th 1205 (*Daniel G.*) and *In re Victoria M.* (1989) 207 Cal.App.3d 1317 (*Victoria M.*) is misplaced. In each of those cases, the mother was described as being developmentally delayed or mentally retarded. (*Daniel G.*, *supra*, at pp. 1207-1208; *Victoria M.*, *supra*, at pp.1324-1325.) The

case plans in those cases were found to be inadequate because specialized services that were available were not provided. (*Daniel G.*, *supra*, at p. 1216; *Victoria M.* *supra*, at pp. 1328-1330.) Such is not the case before this court.

Regarding the parents' complaint that the Department failed to make any effort to overcome K.R.'s refusal to visit with them, the Department points out that neither parent complained to the juvenile court about visitation. Nonetheless, Father responds it was the Department's responsibility "to establish that it had provided [him] with adequate parent-child visits before the court could find that reasonable services had been provided."

Turning to the record, we conclude the Department is not at fault for the lack of visitation between the parents and K.R.; the parents are at fault. By choosing not to inquire about K.R. and choosing not to bring him a Christmas present, the parents' actions spoke volumes about what they thought of him. While Mother attempts to blame their actions on her "emotional condition," the fact remains the parents were able to inquire about the three youngest boys and bring them Christmas gifts. Thus, neither can blame their disparate treatment of K.R. on any "deficiency in assistance with respect to . . . counseling."

Substantial evidence reveals that the Department provided the parents with reasonable reunification services. Further, the services offered were reasonably geared toward overcoming the problems that caused the dependency and were appropriate under the circumstances. (See *In re Jasmon O.* (1994) 8 Cal.4th 398, 424-425; *In re Christina L.* (1992) 3 Cal.App.4th 404, 417.) The problem is not that inadequate services were offered, but that the parents failed to fully participate in them.

Ultimately, regardless of the parents' feelings toward K.R., it was their failure to take responsibility for their actions and the services provided that resulted in the juvenile court finding it was detrimental to return the child to their care; it was not a deficiency in the type of services provided. Under these circumstances, the services were reasonable. (*In re Misako R.* (1991) 2 Cal.App.4th 538, 547.)

III. DISPOSITION

The order is affirmed.

NOT TO BE PUBLISHED IN OFFICIAL REPORT

HOLLENHORST

Acting P. J.

We concur:

MCKINSTER

J.

MILLER

J.